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TRANSMITTAL: 04 OMM/ADM-8

To: Commissioners of
Social Services

DIVISION: Office of Medicaid
Management

DATE: December 31, 2004

SUBJECT: Aliessa/Adamolekun v. Novello Implementation of Retroactive Relief to Class Members

SUGGESTED DISTRIBUTION:	Medicaid Staff Public Assistance Staff Fair Hearing Staff Staff Development Coordinators
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ATTACHMENTS:	See Appendix 1 for listing of attachments

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
04 ADM-7			<u>Aliessa v. Novello</u> 96 NY2d 418 (2001) <u>Aliessa/Adamolekun v. Novello</u> Order entered on August 5, 2004		

APPENDIX I

- Attachment I: Letter to Potential Class Members
- Attachment II: Form "Important Notice to Potential Aliessa/Adamolekun
Class Members"
- Attachment III: Aliessa/Adamolekun English/Spanish Poster (reduced size)
- Attachment IV-A: Upstate-Notice of Decision on Class Membership:
Aliessa/Adamolekun v. Novello
- Attachment IV-B: New York City-Notice of Decision on Class Membership:
Aliessa/Adamolekun v. Novello
- Attachment V: Medicaid Federal Poverty Lines for 1997-2004
- Attachment VI: Medicaid Poverty Lines for Child Health Plus A 1997-2004
- Attachment VII-A: Upstate-Notice of Decision on Paid and Unpaid Medical
Bills: Aliessa/Adamolekun v. Novello
- Attachment VII-B: New York City-Notice of Decision on Paid and Unpaid
Medical Bills: Aliessa/Adamolekun v. Novello
- Attachment VIII: Reimbursement Detail Form/Paid Bills
- Attachment IX: Reimbursement Detail Form/Unpaid Bills

I. PURPOSE

This Administrative Directive instructs social services districts how retroactive relief to immigrants who are members of the certified class in Aliessa/Adamolekun v. Novello must be implemented. It will advise districts to determine whether immigrants are members of the certified class and, if so, whether these immigrants' medical bills for care they received from September 12, 1997, to August 5, 2004, may be paid or reimbursed.

II. BACKGROUND

On October 14, 1998, the Aliessa v. Novello lawsuit was filed. This court case challenged the Department's implementation of Social Services Law (SSL) §122 which became effective September 12, 1997.

On July 11, 2000, a class action complaint, Adamolekun v. Novello, was filed on behalf of the named plaintiffs and all other similarly situated lawful immigrants, challenging the Department's implementation of SSL §122.

On June 5, 2001, the New York State Court of Appeals decision, Aliessa v. Novello, held Social Services Law §122 unconstitutional to the extent it denied Medicaid to qualified immigrants who were formerly subject to the five year ban (as defined in Section IV.A.9 of this directive) and Persons Permanently Residing in the United States Under Color of Law (PRUCOL) immigrants (as defined in Section IV.A.10 of this directive). The Aliessa decision restored Medicaid coverage in New York State to both qualified immigrants who were formerly subject to the five year ban and PRUCOLs regardless of when they entered the U.S.

Local Departments of Social Services (LDSS) were notified that effective June 1, 2001, State and locally funded Medicaid for otherwise eligible immigrants is no longer dependent on whether the immigrant was a qualified or non-qualified immigrant and the date on which the immigrant entered the United States.

Immediately following the issuance of the Aliessa decision, the Department and the Aliessa/Adamolekun plaintiffs began to negotiate a plan to provide retroactive relief to qualified immigrants who were formerly subject to the five year ban and PRUCOL immigrants who were denied Medicaid based on Social Services Law §122, or who were otherwise adversely affected by the statute. In early 2004, the Department and plaintiffs submitted their respective plans to Justice Abdus-Salaam, State Supreme Court Justice, New York County, for final resolution.

On August 2, 2004, Justice Abdus-Salaam signed an order that incorporated the final plan for providing retroactive relief to qualified immigrants who were formerly subject to the five year ban and PRUCOL immigrants who are members of the certified class. A few days later, on August 5, 2004, the court's order was entered in State Supreme Court, New York County.

This Administrative Directive implements the terms of this August 5, 2004, Court order of Justice Abdus-Salaam in Aliessa/Adamolekun v. Novello. It provides detailed instructions regarding the definition of the certified class, how social services districts must determine whether an immigrant is a member of the certified class, whether the eligible immigrant's medical bills for care received during the retroactive period, from September 12, 1997, to August 5, 2004, may be paid or reimbursed.

III. PROGRAM IMPLICATIONS

To implement the Court's order, the social services district worker must first determine whether an immigrant is a member of the Aliessa/Adamolekun certified class. If the district worker determines that the immigrant is a member of the certified class, the worker must then determine whether the immigrant's medical bills for care the immigrant obtained from September 12, 1997, to August 5, 2004, may be reimbursed or paid. This directive explains the manner in which districts must make these determinations.

This Administrative Directive further directs social services districts that they must not deny, reduce, or discontinue class members' or other lawful permanent residents', qualified immigrants' formerly subject to the five year ban or PRUCOL aliens' eligibility for Medicaid, Family Health Plus or Child Health Plus A based on Social Services Law §122.

IV. REQUIRED ACTION

A. DEFINITIONS

The following definitions apply in this Administrative Directive:

1. "Certified Aliessa/Adamolekun Class"

The certified Aliessa/Adamolekun class comprises all aliens who would have been eligible for Medicaid but for the operation of Social Services Law §122 who are either lawful permanent resident aliens who entered the United States on or after August 22, 1996, or are permanently residing in the United States under color of law (PRUCOL) and who are:

Discontinued Class Members, as defined in paragraph 2, below;

Denied Class Members, as defined in paragraph 3, below;

Emergency Medicaid Only Class Members, as defined in paragraph 4, below;

Safety Net Assistance Class Members, as defined in paragraph 5, below; or

Child Health Plus B Class Members, as defined in paragraph 6, below.

2. "Discontinued Class Member"

A "Discontinued Class Member" is a class member whose Medicaid was discontinued on or after September 12, 1997, and no later than August 5, 2004, due solely to the operation of Social Services Law ("SSL") §122.

3. "Denied Class Member"

A "Denied Class Member" is a class member whose Medicaid application was denied on or after September 12, 1997, and no later than August 5, 2004, due solely to the operation of SSL §122.

4. "Emergency Medicaid Only Class Member"

An "Emergency Medicaid Only Class Member" is a class member who, on or after September 12, 1997, and no later than August 5, 2004, was authorized for Medicaid only for care and services necessary for the treatment of an emergency medical condition and such authorization was due solely to the operation of SSL §122.

5. "Safety Net Assistance Class Member"

A "Safety Net Assistance Class Member" is a class member who, on or after September 12, 1997, and no later than August 5, 2004, was authorized to receive Safety Net Assistance pursuant to SSL §157 *et. seq.* and who was not also in receipt of a Medicaid authorization due solely to the operation of SSL §122.

6. "Child Health Plus B Class Member"

A "Child Health Plus B Class Member" is a class member who, on or after September 12, 1997, and no later than August 5, 2004, would have been eligible for Child Health Plus A but was enrolled in Child Health Plus B due solely to the operation of SSL §122.

7. "Authorized Representative"

An "authorized representative" means:

- a. an individual who, or organization or medical provider that, a potential class member has designated in writing as authorized to represent him or her for the purposes of establishing such potential class member's status as a class member pursuant to Section IV.E. of this directive, and such class member's eligibility for reimbursement or payment of medical bills pursuant to Sections IV.G. and H. of this directive.
- b. a potential class member's or class member's guardian *litem* appointed pursuant to Article 12 of the Civil Practice Law and Rules or guardian appointed pursuant to Article 81 of the Mental Hygiene Law or any other guardian appointed pursuant to any other provision of law;

- c. a potential class member's or class member's attorney-in-fact;
- d. a deceased potential class member's or class member's executor or administrator; or
- e. any other individual who, or organization that, may be an authorized representative pursuant to 18 NYCRR §358-3.9. This regulation applies to persons who, or organizations that, may represent an individual at a conference or a fair hearing.

8. "Medicaid"

This means all Medical Assistance provided pursuant to Title 11 of Article 5 §363 et seq. of the Social Services Law ("SSL") or Title 18 of New York Codes, Rules and Regulations ("18 N.Y.C.R.R."), Parts 360 and 505 et seq.

9. "Qualified Immigrants Formerly Subject to the Five Year Ban"

Qualified immigrants in this group include the following:

- Persons lawfully admitted for permanent residence (i.e. LPRs-"green card holders") under the Immigration and Nationality Act (INA);
- Persons paroled into the United States under §212(d)(5) of the Immigration and Nationality Act (INA) for a period of at least one year;
- Persons granted conditional entry pursuant to §203(a)(7) of the Immigration and Nationality Act (INA); and
- Certain battered spouses and children who have been granted or found prima facie eligible for relief by the United States Citizenship and Immigration Services (USCIS) under the Violence Against Women Act (VAWA).

10. "Persons Permanently Residing in the United States Under Color of Law" (PRUCOL)

A PRUCOL individual is a noncitizen whose presence in the United States is known to the United States Citizenship and Immigration Services (USCIS) but whom the USCIS does not currently intend to remove or deport.

The immigration documentation that these immigrants are required to have is described in detail in 04 OMM/ADM 7 "Citizenship and Alien Requirements for the Medicaid Program."

B. IDENTIFYING POTENTIAL ALIESSA/ADAMOLEKUN CLASS MEMBERS

The Department has reviewed its Welfare Management System (WMS) and other appropriate enrollment files to identify, to the extent revealed in such files, the names and most recent known addresses of potential Discontinued Class Members, Denied Class Members, Emergency Medicaid Only Class Members, Safety Net Assistance Class Members and Child Health Plus B Class Members.

C. NOTICE TO POTENTIAL CLASS MEMBERS

The Court's order provides for several different means for the Department to notify potential Aliessa/Adamolekun class members that they may be class members in this action and, if so, that they be eligible for reimbursement of paid medical bills and payment of unpaid medical bills for services obtained from September 12, 1997, to August 5, 2004. These notification methods include a mass mailing to potential class members, posters and a press release/public service announcement.

1. Mass Mailing

The Department is in the process of mailing a letter and enclosed form to each potential class member whom the Department identified from its WMS and other appropriate enrollment files.

Copies of the letter and form that the Department is mailing to each potential class member whom the Department has identified from its files are appended to this directive as Attachments I and II, respectively.

2. Posters

The Department is in the process of distributing posters that summarize the Court's order and advise potential class members that they may be eligible for reimbursement of paid bills and payment of unpaid bills for Medicaid covered services obtained on or after September 12, 1997, and no later than August 5, 2004. The posters also advise potential class members of the manner in which, and the date by which, they may apply to the social services district for a determination of eligibility for relief as class members.

The Department has produced these posters, which measure 11" by 17", in several languages: English/Spanish, English/Russian, English/Chinese and English/Haitian-Creole.

The Department is distributing a supply of each of these posters to all Social Services districts. A reduced size copy of the English/Spanish poster that the Department is distributing is appended to this directive as Attachment III.

Additional posters in any of these languages may be requested via-email at sar05@health.state.ny.us or by telephone at 1-518-473-5330.

Each district must display the posters in conspicuous locations in Medicaid and Public Assistance application sites, Income Support and Job Center offices and in fair hearing sites.

All posters must be displayed for six months from the date of receipt.

The Department will also be distributing posters to facilitated enrollment sites, hospitals, community-based health centers and certain other entities that provide

assistance in preparing Medicaid, Family Health Plus and Child Health Plus applications.

3. Press Release

The Department will also be issuing a press release/public service announcement that informs the public of the Court's order; that immigrants may be eligible for Medicaid, Family Health Plus and Child Health Plus A; and of the general manner in which potential Aliessa/Adamolekun class members may make a claim for reimbursement or payment of medical bills incurred on or after September 12, 1997, and no later than August 5, 2004.

D. INITIAL STEPS THAT DISTRICT WORKERS MUST TAKE WHEN IMMIGRANTS SEEK RETROACTIVE RELIEF AS CLASS MEMBERS

Immigrants will learn about the availability of retroactive relief to Aliessa/Adamolekun class members from various sources. Some potential class members will have received the Department's letter and enclosed form that are described above and that are appended to this directive as Attachments I and II, respectively. These immigrants were advised to return the form, entitled "Important Notice to Potential Aliessa/Adamolekun Class Members," to the district no later than August 5, 2005, together with a copy of each medical bill for care they received from September 12, 1997, to August 5, 2004, that Medicaid did not pay because of the immigrants' immigration status.

Other potential class members might not have received the Department's letter and enclosed form but will apply to the district for relief after having seen the Department's posters, heard the Department's press release or learned from other sources about the potential for reimbursement or payment of old bills for certified class members. These immigrants must be given the form entitled "Important Notice to Potential Aliessa/Adamolekun Class Members" that is appended to this directive as Attachment II. This form instructs the immigrant that, as soon as possible and before August 5, 2005, he or she must return the form and submit a copy of each paid and unpaid medical bill for care received from September 12, 1997, to August 5, 2004.

Regardless of the manner in which immigrants learn of the availability of retroactive relief, the social services district worker is responsible for determining whether each immigrant who seeks reimbursement or payment of medical bills incurred from September 12, 1997, to August 5, 2004, is a member of the certified class. To be a member of the certified class, the immigrant must be either a Discontinued Class Member, Denied Class Member, Emergency Medicaid Only Class Member, Safety Net Assistance Class Member or Child Health Plus B Class Member, as defined, in Section IV.A. (2)-(6) of this directive.

NOTE: Immigrants who have not received the Department's letter and form may still be potential class members if, from September 12, 1997, to August 5, 2004, they were denied or discontinued Medicaid based on SSL §122 or, based on their immigration status, were authorized during this time period only for Emergency Medicaid Coverage, Safety Net Assistance or Child Health Plus B.

1. Clearance/Verification of Potential Class Membership

The district must verify the following through WMS and/or a search of other district files:

- a. Was the immigrant **discontinued** from Medicaid based on SSL §122? The district worker must verify through WMS whether the immigrant was discontinued from Medicaid at any time on or after September 12, 1997, and no later than August 5, 2004, and the date of the discontinuance or discontinuances, if the immigrant was discontinued more than once. The district worker must also verify whether the immigrant was discontinued from Medicaid based on his or her immigration status. If the reason for the discontinuance cannot be determined from the WMS coding, the district worker must review the case file.
- b. Was the immigrant **denied** Medicaid based on SSL §122? The district worker must verify through WMS whether the immigrant was denied Medicaid at any time on or after September 12, 1997, and no later than August 5, 2004, and the date of the denial or denials, if the immigrant was denied more than once. The district worker must also verify, to the extent possible, that the immigrant was denied Medicaid based on his or her immigration status. If the reason for the denial cannot be determined from the WMS coding, the district worker must review the case file.
- c. Was the immigrant **authorized** for Emergency Medicaid Only based on SSL §122? The district worker must verify through WMS whether the immigrant, on or after September 12, 1997, and no later than August 5, 2004, was authorized for Medicaid only for care and services necessary for the treatment of an emergency medical condition. The district worker must also verify whether the immigrant was in receipt of more than one Emergency Medicaid Only authorization during this period.
- d. Was the immigrant **authorized only for Safety Net Assistance based on SSL §122**? The district worker must verify through WMS whether the immigrant, on or after September 12, 1997, and no later than August 5, 2004, was authorized to receive Safety Net Assistance but was not authorized to receive Medicaid. The district worker must also verify whether the immigrant was in receipt of more than one Safety Net Assistance authorization during this period.
- e. Was the immigrant **authorized only for Child Health Plus B based on SSL §122**? The district worker must verify whether the immigrant, on or after September 12, 1997, and no later than August 5, 2004, was denied Child Health Plus A.

If the district worker cannot locate the immigrant's case on WMS or other district files, the worker must ask the immigrant or the immigrant's authorized representative, if applicable, if he or she has any documentation or copies of notices that would indicate that the immigrant, during the period from September 12, 1997, to August 5, 2004, was either denied Medicaid or discontinued from Medicaid solely because of his or her immigration status or was authorized only for Emergency Medicaid, Safety Net Assistance or Child Health Plus B. Such documentation and/or notices would show that the immigrant is a potential class member.

2. Determining an immigrant is not a potential class member

The district worker must determine that the immigrant is not a potential class member if a review of WMS, other district files or information provided by the immigrant or his or her authorized representative fails to produce evidence that the immigrant was either:

- denied Medicaid based on SSL §122 during the period from September 12, 1997, to August 5, 2004;
- discontinued from Medicaid based on SSL §122 during this period;
- authorized only for Emergency Medicaid Only based on SSL §122 during this period;
- authorized only for Safety Net Assistance based on SSL §122 during this period; or
- authorized only for Child Health Plus B based on SSL §122 during this period.

When the district worker determines that the immigrant is not a potential class member, the worker must send the immigrant the notice appended to this directive as Attachment IV-A (Upstate) or IV-B (New York City) "Notice of Decision on Class Membership: Aliessa/Adamolekun v. Novello." Instructions for completing this notice are set forth at Section IV.J.1.a. of this directive. The district worker is not required to determine whether the immigrant would have been eligible for Medicaid at the time he or she obtained the medical services for which reimbursement or payment is now sought. Nor is the district required to evaluate whether the immigrants' medical bills should be reimbursed or paid. None of these bills are eligible for reimbursement or payment.

3. Determining an immigrant is a potential class member

The district must determine that the immigrant is a potential class member if a review of WMS, other district files, or information provided by the immigrant or his or her authorized representative indicates that the immigrant was either:

- denied Medicaid based on SSL §122 during the period from September 12, 1997, to August 5, 2004;
- discontinued from Medicaid based on SSL §122 during this period;
- authorized only for Emergency Medicaid Only based on SSL §122 during this period;

- authorized only for Safety Net Assistance based on SSL §122 during this period; or
- authorized only for Child Health Plus B based on SSL §122 during this period.

The district worker must next determine whether the potential class member is, in fact, a class member and is otherwise eligible for Medicaid and had a satisfactory immigration status for the period of time for which the immigrant seeks reimbursement or payment. This process is discussed in Section IV.E. of this directive, below.

E. DETERMINING IMMIGRANTS ARE MEMBERS OF THE ALIESSA/ADAMOLEKUN CERTIFIED CLASS

The certified Aliessa/Adamolekun class includes all immigrants who would have been eligible for Medicaid but for the operation of Social Services Law §122 and who are either lawful permanent residents or other qualified immigrants who were formerly subject to the five year ban or PRUCOL immigrants and who are either Discontinued Class Members, Denied Class Members, Emergency Medicaid Only Class Members, Safety Net Assistance Class Members or Child Health Plus B Class Members, as defined in this directive at Section IV.A.(2)-(6).

In other words, the class includes qualified immigrants who were formerly subject to the five year ban and PRUCOL immigrants who would have been financially and otherwise eligible for full Medicaid coverage if SSL §122 had not been in effect. Because SSL §122 was in effect, however, these immigrants were denied Medicaid, were discontinued from Medicaid or were authorized only for Medicaid coverage for the treatment of an emergency medical condition, Safety Net Assistance or Child Health Plus B.

Immigrants who establish their eligibility as Aliessa/Adamolekun class members may be eligible for reimbursement of paid medical bills and payment of unpaid medical bills for covered care and services they received on or after September 12, 1997, and no later than August 5, 2004.

To be an Aliessa/Adamolekun class member, an immigrant must establish that:

- The immigrant would have been financially and otherwise eligible for Medicaid at the time the immigrant received the medical care for which he or she is seeking reimbursement or payment; and
- The immigrant had a satisfactory immigration status at the time he or she received this medical care, that is, the immigrant was either a qualified immigrant who was formerly subject to the five year ban or a PRUCOL immigrant.

This directive contains principles that districts must follow when determining whether an immigrant has established the first such element of class membership; that is, whether the immigrant is financially and otherwise eligible for Medicaid as a Denied Class Member, Discontinued Class Member, Emergency Medicaid Only Class Member, Safety Net Assistance Class Member or Child Health Plus B Class Member for the period when he or she received the medical service for which reimbursement or payment is now sought. These principles, which are set forth in the Court's order, are described below and are further referenced in those provisions of this directive that discuss each of the five categories of class membership.

This directive also delineates how districts must determine whether an immigrant has established a satisfactory immigration status, which is the second element for class membership. For the purposes of this directive, "satisfactory immigration status" means a status as a qualified immigrant formerly subject to the five year ban on Medicaid eligibility or status as a PRUCOL immigrant. The Department has recently issued a companion Administrative Directive, 04 OMM/ADM-7 entitled "Citizenship and Alien Status Requirements for the Medicaid Program," that discusses this subject in detail. Districts must follow the guidance contained in that directive when determining whether an immigrant has documented a satisfactory immigration status for purposes of membership in the Aliessa/Adamolekun class.

The immigration documentation that these immigrants are required to have is described in detail in 04 OMM/ADM 7 "Citizenship and Alien Requirements for the Medicaid Program."

1. General Principles for Determining Medicaid Eligibility

Social services districts must take the actions described in this section when determining whether potential Denied Class Members, Discontinued Class Members, Emergency Medicaid Only Class Members, Safety Net Assistance Class Members or Child Health Plus B Class Members qualify as Aliessa/Adamolekun Class Members and may be eligible for reimbursement of paid bills or payment of unpaid bills for medical services obtained on or after September 12, 1997, and no later than August 5, 2004.

When determining whether a potential class member would have been eligible for Medicaid on or after September 12, 1997, and no later than August 5, 2004, social services districts must apply the following principles:

- a. The district must use information that does not change from authorization period to authorization period regarding the potential class member that is available to the district from the district's existing files or the Welfare Management System (WMS). This information includes, but is not limited to, Social Security Number and date of birth.

- b. The district may require the potential class member or his or her authorized representative, as defined in Section IV.A.(7) of this directive, to provide information that is not in the district's existing files or that may change from authorization period to authorization period. This information may include, but is not limited to, documentation regarding the potential class member's income, resources when appropriate, household size and immigration status.

- c. The district may not require the potential class member to complete a Medicaid application (i.e. the LDSS-2921 or Access New York DOH-4220H). Nor is a face-to-face interview required. However, the district may require each potential class member or his or her authorized representative to provide documentation of the potential class member's and any legally responsible relative's income and, if required by State law or regulation for the relevant period, resources at the time the potential class member obtained the medical services for which he or she now seeks reimbursement or payment.

It is possible, however, that the potential class member, or his or her authorized representative, may be unable to provide documentation of income and resources for the period when the medical service was obtained. If the individual is unable, despite diligent effort, to provide documentation which dates back to the period services were received, then the district must permit the individual to provide documentation of income and resources when applicable for either of the following periods:

- (1) any other time period of at least four weeks duration beginning on or after September 12, 1997, and ending no later than August 5, 2004; or
- (2) any other more recent time period of at least four weeks duration beginning after August 5, 2004.

If the potential class member can provide documentation of income and resources (or the district verifies through alternate means) for either of the time periods described above, and this documentation establishes that the individual met the Medicaid financial eligibility requirements for that particular time period, then the district must determine that the potential class member was financially eligible for Medicaid when he or she obtained the service for which reimbursement or payment is now sought.

NOTE: Since the WMS Medicaid Budget Logic program (MBL) does not have Medicaid eligibility levels for previous years, the district should refer to "Medicaid Federal Poverty Lines for 1997-2004" and "Medicaid Poverty Lines for Child Health Plus A 1997-2004," which are appended to this directive as Attachments V and VI, respectively, when determining whether a potential class member met the Medicaid income and, if applicable, resource requirements for the appropriate time period.

- d. The district must not deem the income or resources of a potential class member's sponsor as being available to the potential class member. However, the district must consider the income and resources of a potential class member's legally responsible relatives, if any, as being available to the individual as otherwise required by State law or regulation.
- e. The district must process requests on behalf of immigrants who appear to have been the fiscal responsibility of another social services district during the period September 12, 1997, to August 5, 2004. The district to which the immigrant has initially **applied for relief** as a class member must take the following action:
 - (1) accept from the immigrant the form entitled "Important Notice to Potential Aliessa/Adamolekun Class Members" that is appended to this directive as Attachment II or ask the immigrant to complete this form if he or she has not received it from the Department;
 - (2) make copies of all paid and unpaid bills; proof of income (wage receipts) and proof of immigrant status;
 - (3) Attach the copies of all paid and unpaid bills, proof of income (wage receipts) and proof of immigration status to the form "Important Notice to Potential Aliessa/Adamolekun Class Members"; and
 - (4) Forward the documentation to the district that is fiscally responsible for the immigrant.
- f. The district must determine whether each potential class member who seeks reimbursement or payment of medical bills incurred on or after September 12, 1997, and no later than August 5, 2004, is currently in receipt of Medicaid. Each such potential class member who is not currently in receipt of Medicaid, and who wishes to apply for Medicaid, Family Health Plus or Child Health Plus A, must have his or her eligibility determined in accordance with otherwise applicable provisions of law and regulations.

2. Procedures for Discontinued Class Members

A "Discontinued Class Member" is a class member whose Medicaid was discontinued on or after September 12, 1997, and no later than August 5, 2004, due solely to the operation of SSL §122.

Districts must follow the procedures in this section for immigrants who appear, based on the district's WMS clearance report, other district files, or documentation provided by the immigrant or the immigrant's authorized representative, to have been discontinued from Medicaid on or after September 12, 1997, and no later than August 5, 2004, based solely on his or her immigration status.

a. Automatic Medicaid eligibility for 12 months from date of discontinuance

The district must automatically restore each Discontinued Class Member to Medicaid for twelve months. The twelve months begin on the date that the immigrant's Medicaid authorization was discontinued. The immigrant is not required to provide

the district with any documentation of his or her income, resources or immigration status during this twelve month period.

Each Discontinued Class Member may be eligible for reimbursement of paid bills and payment of unpaid bills for medical services he or she obtained during this twelve month period that would otherwise have been paid by Medicaid. The procedures districts must follow when determining whether these immigrants' medical bills can be reimbursed or paid are set forth at Sections IV.G. and H. of this directive.

b. Medicaid eligibility and immigration status must be established for all subsequent periods

The Discontinued Class Member may have medical bills for services he or she obtained after the twelve month period described above but no later than August 5, 2004. To be eligible for reimbursement or payment of these bills, the immigrant must establish not only that he or she was eligible for Medicaid at the time the service was obtained but also that he or she was a qualified immigrant formerly subject to the five year ban on Medicaid eligibility or a PRUCOL immigrant at the time the service was obtained.

To determine whether the Discontinued Class Member was eligible for Medicaid when he or she obtained the medical care for which reimbursement or payment is now sought, the district worker must follow the general principles previously discussed in Section IV.E.1 of this directive, entitled "General Principles for Determining Medicaid Eligibility." In particular, the district must not require the immigrant to submit a formal Medicaid application. Although the district may request documentation of the immigrant's income and resources at the time he or she obtained the medical service, the district must permit the immigrant to document income or resources for either of two alternative periods if the immigrant does not have documentation for the same date or period the service was obtained. Specifically, the district must permit the immigrant to document income and resources for either of the following time periods:

- (1) any other time period of at least four weeks duration beginning on or after September 12, 1997, and ending no later than August 5, 2004; or
- (2) any other more recent time period of at least four weeks duration beginning after August 5, 2004.

To determine whether the immigrant had a satisfactory immigration status at the time he or she received the services, the district worker must review the immigration documents provided by the immigrant or his or her authorized representative and consult 04 OMM/ADM-7, entitled "Citizenship and Alien Status Requirements for the Medicaid Program."

When the district worker determines that the Discontinued Class Member was both financially and otherwise eligible for Medicaid and was either a qualified immigrant who was formerly subject to the five year ban or a PRUCOL immigrant when the service was obtained, the district worker must authorize the

immigrant for Medicaid for that period. The Discontinued Class Member will be eligible for reimbursement or payment of the bills in accordance with the procedures outlined in Sections IV.G. and H. of this directive.

c. Examples of Procedures for Discontinued Class Members

In this example, the district's WMS report shows that the immigrant was discontinued from Medicaid effective August 1, 1998, based solely on his or her immigration status. This immigrant is a Discontinued Class Member. The district must automatically restore this immigrant's Medicaid eligibility for twelve months, or until July 31, 1999. Any paid or unpaid medical bills the immigrant presents for services obtained during this twelve month period from August 1, 1998 to July 31, 1999, are eligible for reimbursement or payment as outlined in Sections IV.G. and H. of this directive.

In this example, the immigrant also has medical bills for services obtained in February 2001. To obtain Medicaid coverage for these bills, the immigrant must establish that he or she was eligible for Medicaid at that time and was also a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant. In this example, the immigrant cannot document his or her income or resources for February 2001, but can document income and resources for the four week period commencing July 1, 2004. If this documentation shows that the immigrant was eligible for Medicaid in July 2004, the district must presume that the immigrant was also financially and otherwise eligible for Medicaid in February 2001, the date the services were obtained. If this immigrant can also establish that he or she was either a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant in February 2001, the immigrant will be a class member for this period. These medical bills are eligible for reimbursement or payment as outlined in Sections IV.G. and H. of this directive.

3. Procedures for Denied Class Members

A "Denied Class Member" is a class member whose Medicaid application was denied on or after September 12, 1997 and no later than August 5, 2004, due solely to the operation of SSL §122.

Districts must follow the procedures in this section for immigrants who were denied Medicaid on or after September 12, 1997, and no later than August 5, 2004, based solely on their immigration status. It may happen that the district cannot verify from WMS coding whether the denial was based solely on immigration status. If so, the worker must review other district files and ask the immigrant or the immigrant's authorized representative, if applicable, if he or she has any documentation or copies of notices that would indicate that the immigrant, during the period from September 12, 1997, to August 5, 2004, was denied Medicaid solely because of his or her immigration status. Such documentation and/or notices would demonstrate that the immigrant is a Denied Class Member.

a. Medicaid eligibility and immigration status must be established

Unlike Discontinued Class Members who receive 12 months Medicaid eligibility automatically, each potential Denied Class Member who seeks reimbursement or payment of medical bills must establish not only that he or she was eligible for Medicaid when the medical service was obtained but, also that he or she was a qualified immigrant formerly subject to the five year ban on Medicaid eligibility or a PRUCOL immigrant at the time.

The district worker must follow the general principles set forth in Section IV.E.1. of this directive, entitled "General Principles for Determining Medicaid Eligibility," when determining whether the immigrant was eligible for Medicaid when the medical service was obtained. Although the district must not require the immigrant to complete a formal Medicaid application, the district may require the immigrant to submit such documentation to the district that the district may require to determine whether the immigrant met the eligibility requirements for Medicaid when the service was obtained. If the immigrant cannot provide documentation of income or resources at the time the service was obtained, the district must permit him or her to provide documentation of income and resources for either of two alternative periods:

- (1) any other time period of at least four weeks duration beginning on or after September 12, 1997, and ending no later than August 5, 2004; or
- (2) any other more recent time period of at least four weeks duration beginning after August 5, 2004.

To determine whether the immigrant had a satisfactory immigration status at the time he or she received the services (i.e. the immigrant was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant), the district worker must review the immigration documents provided by the immigrant or his or her authorized representative and consult 04 OMM/ADM-7, entitled "Citizenship and Alien Status Requirements for the Medicaid Program."

b. Authorize Medicaid for twelve months

Each immigrant who establishes his or her Medicaid eligibility and status as a qualified immigrant who was formerly subject to the five year ban or a PRUCOL immigrant is a Denied Class Member. The district must authorize Medicaid for the immigrant for twelve months, beginning on the first day of the month in which the immigrant applied for Medicaid but was denied.

Each Denied Class Member may be eligible for reimbursement of paid bills and payment of unpaid bills for medical services he or she obtained during this twelve month period that would otherwise have been paid by Medicaid. The procedures districts must follow when determining whether these immigrants' medical bills can be reimbursed or paid are outlined in Sections IV.G. and H. of this directive.

c. Eligibility and immigration status must be established for all subsequent periods

The Denied Class Member may have medical bills for services obtained after the twelve month period described above. To be eligible for reimbursement or payment of these bills, the immigrant must establish both that he or she was eligible for Medicaid at the time the service was obtained and that he or she was either a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant at that time.

To determine Medicaid eligibility, the district worker must follow the procedures outlined in Section IV.E.1 of this directive, entitled "General Principles for Determining Medicaid Eligibility." To determine whether the immigrant was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant when the service was provided, the district worker must review the immigration documents provided by the immigrant or his or her authorized representative and consult 04 OMM/ADM-7, entitled "Citizenship and Alien Status Requirements for the Medicaid Program."

When the district worker determines that the immigrant has established that he or she was eligible for Medicaid when the service was obtained and that he or she had a satisfactory immigration status at the time, the district worker must authorize the immigrant for Medicaid for the period covered by the bills. The Denied Class Member may be eligible for reimbursement or payment of the bills according to the procedures outlined in Sections IV.G. and H. of this directive.

d. Eligibility during the three month retroactive eligibility period must be established

The Denied Class Member may have medical bills for services obtained during the three month period prior to the month in which he or she applied for Medicaid but was denied based on SSL §122. To be eligible for reimbursement or payment of these bills, the immigrant must establish both that he or she would have been eligible for Medicaid during such three month retroactive eligibility period, had he or she then requested such coverage, and that he or she was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant at the time.

To determine whether the Denied Class Member was eligible for Medicaid during his or her three month retroactive eligibility period, the district must follow the "General Principles for Determining Medicaid Eligibility" that are outlined in Section IV.E.1 of this directive. To determine whether the Denied Class Member was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant during the three month period before applying for Medicaid, the district worker must review immigration documents provided by the immigrant or his or her authorized representative and consult 04 OMM/ADM-7, entitled "Citizenship and Alien Status Requirements for the Medicaid Program."

When the district determines that the Denied Class Member was eligible for Medicaid during the three month retroactive eligibility period and had a satisfactory immigration status during this period, any medical bills the Denied Class Member incurred or paid may be eligible for reimbursement or payment outlined in Sections IV.G. and H. of this directive.

e. Example of procedure for Denied Class Members

In this example, the district's WMS report shows that the potential Denied Class Member applied for Medicaid on April 15, 2000, but was denied on May 1, 2000, based solely on her immigration status. In this example, the immigrant also is unable to document her income and resources as of April 15, 2000. She is permitted, however, to submit documentation of income and resources for any other period of at least four weeks duration that (1) begins on or after September 12, 1997, and ends no later than August 5, 2004, or that (2) begins on or after August 5, 2004. In this example, the immigrant can document her income and resources for the four week period beginning September 1, 2004. If this documentation shows that the immigrant was eligible for Medicaid in September 2004, the district must presume that she was also financially and otherwise eligible for Medicaid when she originally applied in April, 2000. If the immigrant can also establish that she was either a qualified immigrant who was formerly subject to the five year ban or a PRUCOL immigrant at that time, she is a Denied Class Member and must be authorized for Medicaid for the twelve month period from April 1, 2000 to March 31, 2001. Any medical bills the Denied Class Member incurred during this period are eligible for reimbursement or payment pursuant to the procedures outlined in Sections IV.G. and H. of this directive.

In this example, the Denied Class Member also has medical bills for services obtained during the three month retroactive eligibility period that began on January 1, 2000, which was three months prior to the month in which she applied for Medicaid. The district worker must authorize the Denied Class Member for Medicaid for this period when the worker determines that the immigrant was both eligible for Medicaid, as determined pursuant to Section IV.E.1 of this directive, and was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant at the time, as determined pursuant to 04 OMM/ADM-7, "Citizenship and Alien Status Requirements for the Medicaid Program." The Denied Class Member's medical bills incurred during her three month retroactive eligibility period are eligible for reimbursement or payment outlined in Sections IV.G. and H. of this directive.

4. Procedures for Emergency Medicaid Only Class Members

An "Emergency Medicaid Only Class Member" is a class member who, on or after September 12, 1997, and no later than August 5, 2004, was authorized for Medicaid only for care and services necessary for the treatment of an emergency Medicaid condition and such authorization was due solely to the operation of SSL §122.

Districts must follow the procedures set forth in this section for immigrants who, based on the district's WMS clearance report, other district files or documentation provided by the immigrant or the immigrant's authorized representative, were authorized for Emergency Medicaid Only at any time from September 12, 1997, to August 5, 2004. These immigrants are potential Emergency Medicaid Only Class Members.

a. Authorize Medicaid for twelve months upon showing of satisfactory immigration status

Immigrants who were in receipt of one or more Emergency Medicaid Only authorizations between September 12, 1997, and August 5, 2004, have already established to the social services district that they were financially eligible for Medicaid. However, these immigrants may not yet have established that they were qualified immigrants who were formerly subject to the five year ban or PRUCOL immigrants rather than undocumented or illegal immigrants. Undocumented or illegal immigrants are not eligible for full Medicaid coverage and thus cannot be Aliessa/Adamolekun class members. Consequently, each potential Emergency Medicaid Only Class Member must establish to the social services district that he or she had a satisfactory immigration status during the period that he or she was authorized for Emergency Medicaid Only. This means that the immigrant must show that, during this period, he or she was a qualified immigrant formerly subject to the five year ban on Medicaid eligibility or a PRUCOL immigrant.

To determine whether the potential Emergency Medicaid Only Class Member had a satisfactory immigration status, the district worker must review the immigration documents provided by the immigrant or his or her authorized representative and consult 04 OMM/ADM-7, entitled "Citizenship and Alien Status Requirements for the Medicaid Program."

When the district worker determines that the potential Emergency Medicaid Only Class Member has established that he or she was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant during the period that he or she was authorized only for Emergency Medicaid, the immigrant qualifies as an Emergency Medicaid Only Class Member. The district worker must authorize full Medicaid coverage for the class member for one or more twelve month periods, with each twelve month period beginning on the first day of the month in which the class member was authorized for Emergency Medicaid Only.

It is possible that an Emergency Medicaid Only Class Member will have several Medicaid authorizations, each lasting twelve months and each beginning on the first day of the month in which the class member was authorized for Emergency Medicaid Only. The number of these Medicaid authorizations will depend upon the number of Emergency Medicaid Only authorizations the immigrant received and for which the immigrant is able to establish satisfactory immigration status.

Any medical bills that the Emergency Medicaid Only Class Member incurred or paid during these twelve month periods that would have otherwise have been paid by Medicaid are eligible for reimbursement or payment pursuant to the procedures outlined in Sections IV.G. and H. of this directive.

b. Eligibility and immigration status must be established for all subsequent periods

The Emergency Medicaid Only Class Member may have medical bills incurred during a period when no Medicaid authorization, as described in paragraph a, above, was in effect.

Each Emergency Medicaid Only Class Member who, after the operation of paragraph a, above, would have one or more periods during which no Medicaid authorization is in effect must establish to the social services district that, at the time the service was received, he or she was eligible for Medicaid and was either a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant.

The district worker must follow the rules set forth at Section IV.E.1., "General Principles for Determining Medicaid Eligibility," of this directive to determine whether the immigrant was financially and otherwise eligible for Medicaid when he or she received the medical service for which reimbursement or payment is now sought.

If the district worker determines that the immigrant was otherwise eligible for Medicaid, the worker must determine whether the immigrant was either a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant at the time the medical services were received. To do so, the worker must review the immigration documents provided by the immigrant or his or her authorized representative and follow the instructions set forth in 04 OMM/ADM-7, entitled "Citizenship and Alien Status Requirements for the Medicaid Program."

The district worker must authorize the immigrant for Medicaid when the worker determines that the immigrant has established that he or she was financially and otherwise eligible for Medicaid and was either a qualified immigrant who was formerly subject to the five year ban or a PRUCOL immigrant when the service was received. Medical bills for these services are eligible for reimbursement or payment under Sections IV. G. and H. of this directive.

c. Eligibility during the three month retroactive eligibility period must be established

The Emergency Medicaid Only Class Member may have medical bills for services obtained in his or her retroactive eligibility period. For purposes of this directive, this is the period that commences three months prior to the month in which the class member was authorized for Emergency Medicaid Only. If a class member was authorized more than once for Emergency Medicaid Only, he or she will have more than one three month retroactive eligibility period.

To be eligible for reimbursement or payment of these bills, the immigrant must establish both that he or she would have been eligible for Medicaid during the three month retroactive eligibility period, had he or she then requested such coverage, and that he or she was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant at the time.

The district worker should follow the procedures set forth in paragraph b, above, when determining whether the immigrant was financially and otherwise eligible for Medicaid and had a satisfactory immigration status during this period. When the worker determines that the immigrant was eligible for Medicaid and had a satisfactory immigration status during his or her three month retroactive eligibility period, the worker must authorize the immigrant for Medicaid for his or her three month retroactive eligibility period(s). Any medical bills the Emergency Medicaid Only Class Member incurred for services obtained during this period are eligible for reimbursement or payment according to the procedures outlined in Sections IV.G. and H. of this directive.

d. Example of procedures for Emergency Medicaid Only Class Members

In this example, a potential Emergency Medicaid Only Class Member was twice authorized for Emergency Medicaid Only during the period September 12, 1997, to August 5, 2004. The first Emergency Medicaid Only authorization was effective on November 1, 1998; the second Emergency Medicaid Only authorization was effective on January 1, 2000. If the immigrant can establish that he was either a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant as of the date of the first authorization in November 1998, the district worker must authorize the immigrant for Medicaid for twelve months, from November 1, 1998, to October 31, 1999. The immigrant does not have to document his or her income or resources. Similarly, if the immigrant can establish that he was either a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant as of January 1, 2000, the date of the second Emergency Medicaid Only authorization, the district worker must authorize the immigrant for Medicaid for a second twelve month period, from January 1, 2000, to December 31, 2000. Again, the immigrant does not have to document his income and resources for these periods.

This Emergency Medicaid Only Class Member now has two Medicaid authorizations in effect: the first from November 1, 1998, to October 31, 1999; and the second from January 1, 2000, to December 31, 2000. Medical bills the class member incurred during this period are eligible for reimbursement or payment outlined in Sections IV.G. and H. of this directive.

Note: In cases of multiple emergency Medicaid Only authorizations, each Aliessa/Adamolekun 12-month coverage period begins with the "From Date" of the emergency Medicaid only authorization period.

In this example, the Emergency Medicaid Only Class Member also has medical bills for services he received during periods for which no Medicaid authorization is now in effect. In this example, the class member has medical bills for services received in May 1998 and May 2001. Neither date is within the period for which the class member has been authorized for Medicaid. To be eligible for reimbursement or payment of these bills, the class member must establish that he was eligible for Medicaid and had a satisfactory immigration status at the time.

Finally, this Emergency Medicaid Only Class Member also has medical bills for services received during the three month retroactive eligibility period preceding the date he was first authorized for Emergency Medicaid Only. In this example, the class member was first authorized for Emergency Medicaid Only effective November 1, 1998. For purposes of this directive, his retroactive eligibility period would thus span the period August 1, 1998 to October 31, 1998. To be eligible for reimbursement or payment of these bills, the immigrant must establish that he or she was eligible for Medicaid and was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant during the retroactive eligibility period.

5. Procedures for Safety Net Assistance Class Members

A "Safety Net Assistance Class Member" is a class member who, on or after September 12, 1997, and no later than August 5, 2004, was authorized to receive Safety Net Assistance pursuant to SSL §157 et seq. and who was not also in receipt of a Medicaid authorization due solely to the operation of SSL §122.

Districts must follow the procedures in this section for immigrants who were authorized only for Safety Net Assistance on or after September 12, 1997, and no later than August 5, 2004, and who were not also in receipt of Medicaid.

a. Authorize Medicaid for period commensurate with duration of Safety Net Assistance Authorization

Immigrants who were in receipt of one or more Safety Net Assistance authorizations between September 12, 1997, and August 5, 2004, have already established that they would have been financially and otherwise eligible to receive Medicaid; however, they were unable to receive Medicaid while SSL §122 was in effect because they were either qualified immigrants formerly subject to the five year ban on Medicaid eligibility or PRUCOL immigrants.

The district worker must automatically authorize Medicaid for these immigrants for the same periods that they were authorized for Safety Net Assistance but were not also authorized for Medicaid. These Safety Net Assistance Class Members are not required to provide the district with any documentation of their income and resources or immigration status during the periods that they were authorized only for Safety Net Assistance.

Medical bills that each Safety Net Assistance Class Member incurred during the period that their Safety Net Assistance

authorizations were in effect are eligible for reimbursement or payment pursuant to the procedures outlined in Sections IV.G. and H. of this directive.

b. Medicaid eligibility and immigration status must be established for all other periods

The Safety Net Assistance Class Member may have medical bills for services he or she obtained during periods when no Safety Net Assistance Authorization was in effect from September 12, 1997, to August 5, 2004. To be eligible for reimbursement or payment of these bills, the class member must establish that he or she was eligible for Medicaid at the time the service was obtained and that he or she was then also a qualified immigrant formerly subject to the five year ban on Medicaid eligibility or a PRUCOL immigrant.

To determine whether the Safety Net Assistance Class Member was eligible for Medicaid when he or she obtained the medical care for which reimbursement or payment is now sought, the district worker must follow the general principles set forth at Section IV.E.1 of this directive, entitled "General Principles for Determining Medicaid Eligibility." In particular the district must not require the class member to submit a Medicaid application. Further, the district must permit the class member to document income and resources for any four week period between September 12, 1997, and August 5, 2004, or any four week period that occurs after August 5, 2004, if the immigrant is unable to provide documentation of income and resources when he or she obtained the medical service for which reimbursement or payment is now sought.

To determine whether the class member was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant when the service was obtained, the district worker must follow the guidance set forth in 04 OMM/ADM-07, "Citizenship and Alien Status Requirements for the Medicaid Program."

When the district worker determines that the Safety Net Assistance Class Member was both financially and otherwise eligible for Medicaid and had a satisfactory immigration status when he or she received the medical care, the district worker must authorize the class member for Medicaid for that period. These medical bills will be eligible for reimbursement or payment by the Medicaid program as outlined in Sections IV.G. and H. of this directive.

c. Eligibility during the three month retroactive eligibility period must be established

The Safety Net Assistance Class Member may have medical bills for services obtained in his or her retroactive eligibility period. For the purposes of this directive, this is the period that commences three months prior to the month in which the class member was authorized for Safety Net Assistance. If a class member was authorized more than once for Safety Net Assistance, he or she will have more than one three month retroactive eligibility period.

To be eligible for reimbursement or payment of these bills, the immigrant must establish both that he or she would have been eligible for Medicaid during the three month retroactive eligibility period, had he or she then applied, and that he or she was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant at that time.

The district must follow the procedures set forth in paragraph b, above, when determining whether the immigrant was financially and otherwise eligible for Medicaid and had satisfactory immigration status during this period. When the worker determines that the immigrant was eligible for Medicaid and had a satisfactory immigration status during his or her three month retroactive eligibility period or periods, the worker must authorize the immigrant for Medicaid for his or her three month retroactive eligibility period or periods. Any medical bills that the Safety Net Assistance Class Member incurred for services obtained during this period are eligible for reimbursement or payment according to the procedures outlined in Sections IV.G and H. of this directive.

d. Example of Procedures for Safety Net Assistance Class Members

In this example, an immigrant applied for Safety Net Assistance on March 15, 1999, and was authorized for Safety Net Assistance on April 1, 1999. The district worker must automatically authorize Medicaid for this Safety Net Assistance Class Member for a period that is of equal length as her Safety Net Assistance authorization beginning with the "From Date" of the Safety Net Assistance authorization. The immigrant does not have to establish that she was otherwise eligible for Medicaid or had a satisfactory immigration status during this period.

In this example, the Safety Net Assistance Class Member also has medical bills for the three month period that preceded her application for Safety Net Assistance on March 15, 1999. She also has medical bills for services she received while her Safety Net Assistance authorization was not in effect. To be eligible for reimbursement or payment of these bills, the immigrant must establish that she was eligible for Medicaid and had a satisfactory immigration status when she received the services. The district must follow the "General Principle for Determining Medicaid Eligibility" contained in Section IV.E.1. of this directive, and 04 OMM/ADM-7, to determine whether the immigrant was financially and otherwise eligible for Medicaid and was either a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant, when she received the medical services.

6. Procedures for Child Health Plus B Class Members

A "Child Health Plus B Class Member" is a class member who, on or after September 12, 1997, and no later than August 5, 2004, would have been eligible for Child Health Plus A but was enrolled in Child Health Plus B due solely to the operation of SSL §122.

Districts must follow the procedures outlined in this section for potential class members who were enrolled in Child Health Plus B from September 12, 1997, to August 5, 2004, due solely to their immigration status, and who seek reimbursement or payment of medical bills for services the immigrant received before or while the immigrant was enrolled in a Child Health Plus B plan.

a. Determine whether the immigrant would have been eligible for Child Health Plus A

The district worker must determine whether the potential Child Health Plus B Class Member would have been eligible for Child Health Plus A when he or she received the medical services for which reimbursement or payment is now sought. To do so, the district worker must follow the general principles for determining Medicaid eligibility that are set forth in Section IV.E.1. of this directive. If the district worker cannot locate the immigrant's case on WMS or other district files, the worker must ask the immigrant or the immigrant's authorized representative, if applicable, if he or she has any documentation or copies of notices that would indicate that the immigrant, during the period from September 12, 1997, to August 5, 2004, was enrolled in Child Health Plus B. If the potential class member can provide documentation that he or she was enrolled Child Health Plus B and has satisfactory alien status, the district must assume that he or she was enrolled in Child Health Plus B because of the operation of SSL §122. The district must not require the immigrant to complete a Medicaid application and must permit the immigrant to document income and resources for any period of at least four weeks duration between September 12, 1997, and August 5, 2004, or after August 5, 2004, if the immigrant is unable to document income and resources during the period he or she received the medical services. The immigrant must also establish that he or she was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant.

b. Authorize immigrant for Medicaid for three month retroactive eligibility period

The Child Health Plus B Class Member may have medical bills for services obtained in his or her retroactive eligibility period. For purposes of this directive, the retroactive eligibility period for Child Health Plus B Class Members is the period that begins three months prior to the month in which the class member applied for Child Health Plus B and that ends when the class member was enrolled in a Child Health Plus B Plan. When the district worker determines that the immigrant was eligible for Medicaid, pursuant to the principles set forth at Section IV.E.1 of this directive, and had a satisfactory immigration status, the district must authorize the Child Health Plus B Class Member for Medicaid for the retroactive eligibility period. Medical bills that the class member incurred during his or her retroactive eligibility period are eligible for reimbursement or payment pursuant to the procedures outlined in Sections IV.G. and H. of this directive. The district worker must ask the immigrant to document the start date of his or her enrollment in the Child Health Plus B Plan.

c. Authorize immigrant for Medicaid for services not covered by Child Health Plus B

An immigrant who, due to his or her immigration status, was enrolled in Child Health Plus B rather than Child Health Plus A, may also be eligible for reimbursement or payment of medical bills that would have been paid by Medicaid had the immigrant been enrolled in Child Health Plus A.

Examples of services that are covered by Child Health Plus A, but that are not covered by Child Health Plus B, include private duty nursing services, skilled nursing services, personal care services, orthodontia, medical/surgical supplies and orthopedic shoes.

The immigrant must have been eligible for Medicaid when the service was obtained and must also have been either a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant. If the district worker determines that the immigrant has established both criteria, the worker must authorize the immigrant for Medicaid for the period of time from September 12, 1997, to August 5, 2004, that the immigrant obtained the service.

d. Example of procedure for Child Health Plus B Class Members

In this example, the potential class member applied for Child Health Plus B on March 15, 1999, and was enrolled in a Child Health Plus B plan on May 1, 1999. The potential class member also has medical bills for services he received during his retroactive eligibility period. For purposes of this particular example, the retroactive eligibility period begins on December 1, 1998, which is three months prior to the month in which the class member applied for Child Health Plus B, and ends on April 30, 1999, the date upon which the class member was enrolled in a Child Health Plus B plan.

To be eligible for reimbursement or payment of these bills incurred during the three month retroactive eligibility period, the immigrant must establish that he or she was eligible for Child Health Plus A when he received the medical care for which reimbursement or payment is now sought. The district worker must follow the general principles outlined at Section IV.E.1. "General Principles for Determining Medicaid Eligibility," when determining whether the potential class member was eligible at the time the services were obtained. The worker must also determine whether the immigrant was then either a qualified immigrant formerly subject to a five year ban or a PRUCOL immigrant. If so, these bills are eligible for reimbursement or payment according to the procedures outlined at Sections IV.G. and H. of this directive.

In this example, the Child Health Plus B Class Member also received, while enrolled in a Child Health Plus B plan, an orthodontia service that was not covered by Child Health Plus B but that would have been covered by Child Health Plus A had the immigrant been enrolled in such program. For the medical bill to be reimbursed or paid, the immigrant must establish that he or she was eligible for Medicaid at the time and was also a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant.

7. Immigrants may qualify as class members under more than one category

Immigrants may qualify as Aliessa/Adamolekun class members under more than one of the five categories of class membership described above: Discontinued Class Member, Denied Class Member, Emergency Medicaid Only Class Member, Safety Net Assistance Class Member and Child Health Plus B Class Member.

For example, an immigrant may qualify as a Discontinued Class Member because he or she was a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant who was discontinued from Medicaid based on SSL §122. The district worker would automatically authorize this class member for Medicaid for twelve months from the date of the discontinuance, as explained in Section IV.E.2. of this directive. Medical bills incurred during this twelve month period are eligible for reimbursement or payment. However, this Discontinued Class Member might then have been authorized for Emergency Medicaid Only at some later date. He or she would be an Emergency Medicaid Only Class Member for that later period of time upon establishing that at the time of the Emergency Medicaid Only authorization, he or she was either a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant. If the immigrant establishes such satisfactory immigration status, the district worker would authorize him or her for Medicaid for twelve months, beginning on the first day of the month in which the class member was authorized for Emergency Medicaid Only (See Section IV.E.4. of this directive).

The district worker should be alert to the possibility that immigrants may qualify as class members for different periods of time under more than one of the five categories of class membership. The district's WMS clearance report, other district files, or information provided by the immigrant or his or her authorized representative, should indicate whether the immigrant is a potential Discontinued Class Member, Denied Class Member, Emergency Medicaid Only Class Member, Safety Net Assistance Class Member or Child Health Plus B Class Member. The district should follow the appropriate procedures for each of these categories of potential class membership to determine whether the immigrant is a class member and if so, the period of time for which the district must authorize him or her for Medicaid in the retroactive period from September 12, 1997, to August 5, 2004.

F. SOCIAL SECURITY NUMBERS

Social services districts must take the actions described in this section with respect to class members' Social Security Numbers.

1. Require class member to furnish his or her Social Security Number

The district must require each class member whom the district has determined is eligible for Medicaid, pursuant to Section IV. E. of this directive, or such class member's authorized representative, to furnish a Social Security Number (SSN).

2. Require class member who does not have a Social Security Number to apply for one

The district must require each class member who does not have a social security number and whom the district has determined is eligible for Medicaid, pursuant to Section IV. E. of this directive, or such class member's authorized representative, to apply for a SSN.

3. Give the class member a letter requesting that the federal Social Security Administration issue a Social Security Number

The district worker must provide each class member whose immigration status does not authorize him or her to be employed with a letter that requests that the Social Security Administration ("SSA") issue the class member an SSN for a valid non-work purpose pursuant to POMS Manual Section 203.510, "Alien Without Work Authorization-Nonwork Need for a SSN." This letter must be dated, printed on social services district letterhead and contain the name and telephone number of a district official whom SSA may contact. A copy of this letter is appended to 04 OMM/ADM-7, entitled "Citizenship and Alien Status Requirements for the Medicaid Program," as Attachment A-1. The district worker must advise the class member that as a condition of eligibility, he or she or the class member's authorized representative, must submit this letter to SSA with the SSN application.

4. Permit the class member to attest in writing that he or she requested a Social Security Number or otherwise tried to apply for a SSN

The social services district may require the class member to provide a receipt from the Social Security Administration that the letter to SSA described in paragraph 3, above was submitted. However, if the SSA does not provide the class member with a receipt or acknowledgement that the class member tried to apply for a SSN, the district must accept the class member's written attestation that he or she submitted the letter to SSA as sufficient proof that it was submitted. A copy of the class member's attestation form that may be used for this purpose is appended to 04 OMM/ADM-7, entitled "Citizenship and Alien Status Requirements for the Medicaid Program," as Attachment A-2.

Similarly, when a class member attempts to apply to the Social Security Administration for a SSN, but the SSA office does not permit the class member, or his or her authorized representative,

to apply for a SSN, the district may require the class member or authorized representative to attest in writing to the circumstances under which he or she tried to apply for a SSN. The attestation form is appended to 04 OMM/ADM-7, entitled "Citizenship and Alien Status Requirements for the Medicaid Program," as Attachment A-2.

5. Request documentation of a denial of the class member's request for an SSN

The social services district may require that class members whose applications for SSNs are denied in writing by the Social Security Administration submit documentation of the denial to the district.

6. Do not deny or delay processing of relief under this directive

The social services district must not deny or delay processing any potential class member's eligibility for Medicaid, Family Health Plus or Child Health Plus A or any class member's claim for reimbursement or payment of medical bills pending receipt of such class member's SSN; provided, however, that such class member has applied or attempted to apply for a SSN as provided in this section. The district worker should consult 04 OMM/ADM-7 Section H.1., for further instructions regarding immigrants' SSNs.

G. REIMBURSEMENT OF CLASS MEMBERS' PAID BILLS

Immigrants determined by the social services district to be Aliessa/Adamolekun class members are eligible for reimbursement of paid medical bills incurred from September 12, 1997, and no later than August 5, 2004, that would have been paid by the Medicaid program except for the class member's immigration status.

To be eligible for reimbursement, the medical bill must also have been incurred during the time period for which the district worker has authorized the class member for Medicaid. This directive explains in detail, with examples, how district workers should authorize class members for Medicaid depending upon whether the class member is a Discontinued Class Member, Denied Class Member, Emergency Medicaid Only Class Member, Safety Net Assistance Class Member or Child Health Plus B Class Member.

Local districts may process claims for direct reimbursement of paid bills locally, or they may choose to have the State process the claims. In either case, the district worker must complete the required notices attached to this directive, "Notice of Decision on Paid and Unpaid Medical Bills: Aliessa/Adamolekun v. Novello," Attachment VII-A (Upstate) and Attachment VII-B (New York City) and "Reimbursement Detail Form/Paid Bills," Attachment VIII, of this directive.

Direct reimbursement of paid medical bills to class members or the class members' authorized representatives will be made as follows:

- The class member or authorized representative must present documentation showing that the bill was paid, whether by the class member or another person.

- The paid medical bill must be for a service that was included in the Medicaid program when the class member obtained the service.
- The paid medical bill must be for a service furnished by a provider that was qualified under State law to provide the service; however, there is no requirement that the provider have been enrolled in the Medicaid program when the service was provided. Reimbursement to the class members who obtained covered services from out-of-state providers is subject to the requirements of SSL §365-a(4)(d) and 18 NYCRR §360-3.5.
- Reimbursement for paid medical bills is not limited to the Medicaid fee or rate in effect when the service was furnished and will be made for class members' reasonable out-of-pocket expenses when class members or their authorized representatives paid more than the Medicaid fee or rate. However, reimbursement for services obtained during the three month retroactive eligibility period is limited to the Medicaid fee or rate.
- For all Upstate cases, Aliessa/Adamolekun eligibility periods must be entered in WMS. In New York City, due to system limitations all Aliessa/Adamolekun eligibility and claim payments must be tracked off-line.
- The local social services district may choose to provide the class member with direct reimbursement of paid bills through their local district office according to their local procedures, or they may opt to submit paid claims to the State for processing and the State will issue the check to the class member. Procedures for both processes are described, below, in paragraphs 1 and 2.

1. Direct reimbursement of paid bills: Procedure for districts that issue checks directly

To process direct reimbursement of paid bills, local districts that issue their own checks must use the following procedure:

- a. The LDSS evaluates eligibility for class membership and determines the class member as "ACCEPTED" in one or more of the five categories-Discontinued, Denied, Emergency, Safety Net Assistance or Child Health Plus B.
- b. The district worker reviews and sorts the bills paid for care and services received from September 12, 1997, to August 5, 2004.
- c. The LDSS worker must then complete the appropriate "Notice of Decision on Class Membership" (Attachment IV-A Upstate or Attachment IV-B New York City) as described in Section IV.J.1. of this directive. The worker must make a copy of bills submitted and this notice for the case file, then the worker must mail this notice to the class member.
- d. For approved paid bills, the worker completes appropriate "Notice of Decision on Paid and Unpaid Medical Bills," Attachment VII-A (Upstate) or Attachment VII-B (New York City) as described in Section IV.J.2. of this directive, and "Reimbursement Detail Form/**Paid** Bills," Attachment VIII, according to the directions on the reverse side of the form.
- e. For districts that process their own claims, the worker must

follow their local procedures to issue the check and send the appropriate "Notice of Decision on Paid and Unpaid Medical Bills", Attachment VII-A (Upstate) or Attachment VII-B (New York City) to the case member with the "Reimbursement Detail Form/**Paid** Bills" (Attachment VIII).

2. Direct reimbursement of paid bills: Procedure for districts for which the State issues the check

Districts opting to have the State issue the reimbursement checks to the class member for approved paid bills must complete steps 1.a. through 1.d. above and:

- Send a copy of the completed "Reimbursement Detail Form/**PAID** Bills" with copies of the paid bills attached with proof that the paid bills were paid to the following address:

New York State Department of Health
Medicaid Financial Management Unit
Attention: Tom Grestini
Corning Tower, Room 1237
Albany, New York 12237

- The Medicaid Financial Management Unit will issue the check to the class member.
- The Medicaid Financial Management Unit signs and retains the "Reimbursement Detail Form/**Paid** Bills" for its records.
- The Medicaid Financial Management Unit provides the local district with a quarterly report on claims processed.

Regardless of whether the district issues the reimbursement check or opts for the State to issue the reimbursement check to the class member, the district worker must send a copy the appropriate "Notice of Decision on Paid and Unpaid Medical Bills," Attachment VII-A (Upstate) or Attachment VII-B (New York City), and "Reimbursement Detail Form/**Paid** Bills" to the class member.

H. PAYMENT OF CLASS MEMBERS' UNPAID BILLS

Payment of unpaid medical bills incurred by class members and submitted by them or their authorized representatives will be made as follows:

- Payment will be made to the provider for unpaid medical bills that class members or their authorized representatives submit to social services districts when the bill would have been paid but for the operation of SSL §122.
- The unpaid medical bill must be for a service that was included in the Medicaid program when the class member obtained the service.
- Payment for unpaid medical bills will be made only to providers that were enrolled in the Medicaid program when the service was provided.

- Payment for unpaid medical bills is limited to the Medicaid fee or rate in effect when the service was furnished.

The processing of payment for unpaid bills differs slightly between upstate districts and New York City. Since the Upstate WMS has the capacity to establish eligibility for the entire time period covered by the Aliessa/Adamolekun retroactive relief, all individuals found eligible in all districts other than New York City must be entered into WMS. eMedNY will accept these transactions and post eligibility. Computer Sciences Corporation (CSC) will complete payments to providers as appropriate. In New York City, WMS systems limitations require that all Aliessa/Adamolekun eligibility and claim processing must be done off-line.

1. Payment of unpaid bills (Upstate Process)

To have **unpaid** claims processed all districts, except for New York City, must use the following procedure:

- a. The district worker must evaluate eligibility for class membership and determine the class member as "ACCEPTED" in one or more of the five categories-Discontinued, Denied, Emergency, Safety Net Assistance or Child Health Plus B.
- b. The district worker reviews and sorts the bills paid/unpaid for care and services received from September 12, 1997, to August 5, 2004.
- c. The district worker must then complete the "Notice of Decision on Class Membership," Attachment IV-A (Upstate) as described in Section IV.J.1. of this directive. The worker must make a copy of bills submitted and this notice for the case file, and must mail this notice to the class member.
- d. The worker completes the "Notice of Decision on Paid and Unpaid Medical Bills," Attachment VII-A (Upstate) as described in Section IV.J.2. of this directive and "Reimbursement Detail Form/**UnPaid** Bills" according to the directions on the reverse side of the form. The district worker must send the "Notice of Decision on Paid and Unpaid Medical Bills," Attachment VII-A (Upstate) with the "Reimbursement Detail Form/**UnPaid** Bills," Attachment IX, to the class member.

The Department has advised providers on multiple occasions how they should submit Medicaid claims to the Department's fiscal agent, CSC, for payment, including claims for services rendered more than two years prior to the date the Medicaid claim is submitted. (See Medicaid Update articles entitled "Timely Submission of Claims to Medicaid" published in February and May 2004.) Providers must follow these procedures to be paid for these unpaid bills, depending upon the date upon which the service was provided to the class member.

2. Payment of unpaid bills (New York City Process)

The New York City WMS limits case activation to a maximum of twenty-seven (27) months prior to the transaction date. Therefore, all Aliessa/Adamolekun eligibility and payments will be processed off-line. To have **unpaid** claims processed, the district worker must use the following procedure:

- a. The district worker must evaluate eligibility for class membership and determine the class member as "ACCEPTED" in one or more of the five categories-Discontinued, Denied, Emergency, Safety Net Assistance or Child Health Plus B.
- b. The district worker reviews and sorts the bills paid/unpaid for care and services received from September 12, 1997, to August 5, 2004.
- c. The district worker must then complete the "Notice of Decision on Class Membership," Attachment IV-B (New York City) as described in Section IV.J.1 of this directive. The worker must make a copy of bills submitted and this notice for the case file, and must mail this notice to the class member.
- d. The worker completes "Notice of Decision on Paid and Unpaid Medical Bills," Attachment VII-B (New York City) as described in Section IV.J.2 of this directive and "Reimbursement Detail Form/**Unpaid** Bills" according to the directions on the reverse side of the form.
- e. The district worker must send the "Notice of Decision on Paid and Unpaid Medical Bills" with the "Reimbursement Detail Form/**UnPaid** Bills" to the class member. The class member must be instructed to have the provider submit unpaid claims to the New York City MAP Reimbursement Unit.
- f. The MAP Reimbursement Unit worker will contact the provider to submit a "UB-92" for each claim.
- g. The MAP Reimbursement Unit must send a copy of the completed "Reimbursement Detail Form/**UnPaid** Bills" with copies of the **unpaid** bills attached and a completed copy of the "UB 92" billing form to the address below:

New York State Department of Health
Medicaid Financial Management Unit
Attention: Tom Grestini
Corning Tower, Room 1237
Albany, New York 12237

- h. The State Medicaid Financial Management Unit will issue the check to the provider.
- i. The State Medicaid Financial Management Unit signs and retains the "Reimbursement Detail Form/**UnPaid** Bills" for its records.
- j. The State Medicaid Financial Management Unit provides the MAP Reimbursement Unit with a quarterly report on claims processed.

As in all cases, the district worker must send a copy the "Notice of Decision on Paid and Unpaid Medical Bills," Attachment VII-B (New York City) and "Reimbursement Detail Form/Unpaid Bills," Attachment IX, to the class member.

I. REQUIRED TIME FRAMES FOR DETERMINING CLASS MEMBERSHIP AND REIMBURSEMENT/PAYMENT OF MEDICAL BILLS

1. All medical bills must be submitted to the district no later than August 5, 2005

Potential class members have a deadline by which they must make a claim for reimbursement or payment as Aliessa/Adamolekun class members and by which they must submit to the social services district all medical bills for which they seek reimbursement or payment as class members. This deadline is **August 5, 2005**. All potential class members should submit their medical bills as soon as possible but in no event later than this date. If the class member submits his or her bills by mail, the letter must be postmarked no later than August 5, 2005. The social services district will not consider any requests for relief as a class member under this directive or accept any medical bills that are submitted after August 5, 2005.

2. Districts must issue determinations no later than six months after all documentation and medical bills have been submitted

Social services districts have a deadline by which they must determine whether the immigrant is a class member for the period for which he or she seeks coverage of medical bills and whether those medical bills may be reimbursed or paid. This deadline is measured from the date that the immigrant makes a claim for relief as a class member and submits to the district all documentation necessary to determine whether he or she is a class member and all medical bills for which reimbursement or payment is sought. Once the immigrant submits all documentation and medical bills, the social services district must issue determinations within **six months** as to whether the immigrant is a class member and whether his or her medical bills will be reimbursed or paid.

J. NOTICES OF DECISION ON CLASS MEMBERSHIP AND REIMBURSEMENT OR PAYMENT OF MEDICAL BILLS

Under the Court's order, social services district must notify each potential class member, or such potential class member's authorized representative, who has applied to the district for reimbursement or payment of a medical bill, of the district's determination: (a) whether the potential class member is a class member in this action; (b) whether the class member's medical bills will be reimbursed or paid; (c) the amount of any such reimbursement or payment; (d) the potential class member's or class members right to a fair hearing if he or she disagrees with the district's determination under (a) through (c), and (e) the names and phone numbers of the Aliessa/Adamolekun plaintiffs' counsel.

The Department has developed notices that meet these requirements and that districts **must** use when notifying immigrants whether they are Aliessa/Adamolekun class members and whether their medical bills incurred from September 12, 1997, to August 5, 2004, will be reimbursed or paid. These notices are appended to this directive as:

Attachment IV-A: Upstate-Notice of Decision on Class Membership: Aliessa/Adamolekun v. Novello

Attachment IV-B: New York City-Notice of Decision on Class Membership: Aliessa/Adamolekun v. Novello

Attachment VII-A: Upstate-Notice of Decision on Paid and Unpaid Medical Bills: Aliessa/Adamolekun v. Novello

Attachment VII-B: New York City-Notice of Decision on Paid and Unpaid Medical Bills: Aliessa/Adamolekun v. Novello

1. Notice of Decision on Class Membership: Aliessa/Adamolekun v. Novello

Attachments IV-A (Upstate) and IV-B (New York City) to this directive are the "Notice of Decision on Class Membership: Aliessa/Adamolekun v. Novello." The district worker must be sure to use the appropriate version of this notice. This notice must not be modified and must be issued on legal sized paper as a two-sided rather than a two-page notice.

These notices have two purposes: a) to notify potential class members that they have been accepted as class members and the periods of time for which the district has authorized them for Medicaid; and b) to notify potential class members that they have been denied class membership for one or more periods and the reason for the denial.

The district worker must complete this notice as follows:

- a. The district worker determines that the potential class member was not discontinued or denied from Medicaid based on SSL §122 or was not authorized for Emergency Medicaid Only, Safety Net Assistance or Child Health Plus B at any time from September, 12, 1997, to August 5, 2004.

No immigrant can be a class member unless during the period from September 12, 1997, to August 5, 2004, he or she was denied or discontinued from Medicaid based on SSL §122 or, due to his or her immigration status, was authorized only for Emergency Medicaid Only, Safety Net Assistance or Child Health Plus B.

The district worker should **DENY** class membership when there is no documentary or other evidence, whether obtained from the district's WMS report, other district files or from the immigrant or his or her authorized representative that the immigrant falls within one of these five groups. The worker should insert an "X" or "check" in the box marked "DENIED",

indicate on the "FROM" and "TO" lines the time period as being from September 12, 1997, to August 5, 2004, and explain the reason for the denial. For example, the district could explain the reason for the denial as follows; although similar language is acceptable:

"There is no documentary or other evidence that, from September 12, 1997, to August 5, 2004, you were discontinued from Medicaid based on SSL §122; denied Medicaid based on SSL §122; or, due to your immigration status, were authorized only for Emergency Medicaid, Safety Net Assistance or Child Health Plus B."

The district worker should also **DENY** class membership when the district can establish that the immigrant was denied or discontinued from Medicaid for reasons entirely unrelated to SSL §122. For example, if the immigrant was denied or discontinued from Medicaid based solely on his or her income or resources, the immigrant is not a class member. The worker should insert an "X" or "check" in the box marked "DENIED"; indicate on the "FROM" and "TO" lines the time period (i.e. the time period for which the immigrant seeks coverage of medical bills); and explain the reason for the denial (i.e. that the immigrant was not denied or discontinued from Medicaid based on SSL §122 but based on another reason, which the worker must provide.)

b. The district worker determines that the potential class member is a class member

When the district worker determines, in accordance with Section IV.E., that the immigrant is a class member in one or more of the five categories, the worker will send the class member this notice. The worker must insert an "X" or a "check" in the box marked "ACCEPTED" and indicate the time periods for which the worker has authorized Medicaid in the "FROM" and "TO" lines.

These notices advise the class member that the district has determined whether the class member's medical bills for these periods can be reimbursed or paid. The district worker must also complete and send the class member the appropriate "Notice of Decision on Paid and Unpaid Medical Bills: Aliessa/Adamolekun V. Novello," which are Attachment VII-A (Upstate) and Attachment VII-B (New York City) of this directive.

If the class member seeks reimbursement for paid bills only, the worker must also complete and send the class member the form entitled "Reimbursement Detail Form/Paid Bills." If the class member also seeks payment of unpaid bills, the worker must complete and send the class member the form entitled "Reimbursement Detail Form/Unpaid Bills." These forms are appended to this directive as Attachments VIII and IX, respectively.

c. The district worker determines that the potential class member is not a class member

The district worker should send this notice when he or she determines, in accordance with Section IV.E., that the immigrant has either not established his or her Medicaid eligibility or has not established his or her status as a qualified immigrant formerly subject to the five year ban or a PRUCOL immigrant for the period of time for which the immigrant seeks reimbursement or payment of medical bills.

The district worker must insert an "X" or "check" in the box marked "DENIED;" indicate on the "FROM" and "TO" lines the period(s) of time for which the immigrant sought Medicaid coverage (i.e. the dates upon which he or she received the medical care for which reimbursement or payment was sought); and give the particular reason for the denial in sufficient detail so as to advise the immigrant why his or her application has been denied.

2. Notice of Decision on Paid and Unpaid Medical Bills:
Aliessa/Adamolekun v. Novello

Attachments VII-A (Upstate) and VII-B (New York City) to this directive is the "Notice of Decision on Paid and Unpaid Medical Bills."

This notice advises class members or their authorized representatives of the district's determination whether their medical bills may be reimbursed or paid. The district worker must complete this notice and send it to each immigrant whom the district has determined is a class member. This notice must not be modified and must be issued on legal sized paper as a two-sided rather than a two-page notice. The district worker is not required to send it to immigrants whom the district determines are not class members.

a. Paid medical bills

If the class member sought reimbursement for bills that were paid, the district worker must complete the section of this notice entitled "Decision on Bills that you Paid." If the bills are approved for reimbursement, the worker will check the box marked "Approved paid bills" and enter the total dollar amount of the check that will be sent to the class member. If the bills are denied reimbursement, the worker must check the box marked "Denied paid bills."

The worker must also complete and send to the class member or authorized representative the form entitled "Reimbursement Detail Form/Paid Bills, Aliessa/Adamolekun v. Novello," which is appended to this directive as Attachment VIII.

b. Unpaid medical bills

If the class member sought payment of bills that neither the class member nor anyone else paid, the district worker must complete the section of this notice entitled "Decision on Bills that you did not Pay." If the bills are approved for

payment, the worker must check the box marked "Approved unpaid bills." If the unpaid bills are denied payment, the worker must check the box marked "Denied unpaid bills."

The worker must also complete the form entitled "Reimbursement Detail Form/Unpaid Bills, Aliessa/Adamolekun v. Novello," which is appended to this directive as Attachment IX and send it to the class member or authorized representative.

K. FAIR HEARINGS

Each potential class member whom the district has determined is not a class member, or such potential class member's authorized representative, may request a fair hearing if he or she disagrees with the district's determination that the potential class member is not a class member. Each class member who has been denied reimbursement or payment, in whole or in part, or such class member's authorized representative, may request a fair hearing if he or she disagrees with the district's determination to deny reimbursement or payment or disagrees with the amount of such reimbursement or payment.

L. SYSTEMS IMPLICATIONS

1. Upstate Systems Implications

As discussed earlier, any individual found, under the conditions of this ADM, to be eligible for Aliessa/Adamolekun retroactive relief must be entered into WMS. WMS eligibility can be established for all periods of Aliessa/Adamolekun retroactive eligibility. These transactions will be accepted and eligibility posted for claims payment at the fiscal agent.

When registering the case on WMS, the district must use the date the class member submitted the Aliessa/Adamolekun Form (Attachment II) and paid/unpaid bills to the local district as the "Date of Application". The Authorization Dates, on Screen 1, must be for a current period, i.e., beginning no earlier than three months prior to the WMS Application Date Month. The appropriate "MA Coverage From and To Dates" should reflect the actual period of eligibility. If the "From Date" is more than Eighteen (18) Months prior to the "Authorization From Date" the system will produce Error # 562 (MA COVERAGE DATE INVALID). This error should then be overridden using normal Override procedures and Override Reason Code 03 - Court Decision.

2. New York City Systems Implications

The New York City WMS limits case activation to a maximum of twenty seven months prior to the transaction date. As a result, the majority of eligible Aliessa/Adamolekun class members cannot be processed through WMS. Therefore, all eligibility for Aliessa/Adamolekun must be tracked off-line. MAP must create a database external to WMS to record receipt of Aliessa/Adamolekun responses from potential class members, the outcome of determinations regarding class membership and eligibility for reimbursement or payment of claims, in whole or in part.

VI. EFFECTIVE DATE

The provisions of this OMM/ADM are effective immediately.

Kathryn Kuhmerker, Deputy Commissioner
Office of Medicaid Management